

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK GREEN,

Plaintiff,

v.

DR. MOHYUDDIN,

Defendant.

No. 2:23-cv-1066 DJC CSK P

ORDER

For the reasons stated herein, the findings and recommendations filed April 19, 2024 are vacated, and defendant is granted twenty-one days to file a response to the pleading docketed as “Motion to Substitute Plaintiff,” filed June 26, 2024.

On December 29, 2023, defendant filed an amended notice of plaintiff Frank Green’s death. (ECF No. 23.) On February 23, 2024, the Court granted plaintiff’s children, Kemmica Green and Jonathan Green, until March 28, 2024 to file a motion for substitution. (ECF No. 25 (quoting Fed. R. Civ. P. 25(a)(1) (“If the motion [for substitution] is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.”).) The February 23, 2024 Order provided instructions on the requirements for filing a motion for substitution. (*Id.*) After receiving no motion for substitution, this Court recommended dismissal of this action on April 19, 2024. (ECF No. 28.) On May 14, 2024, this Court granted

Jonathan Green's request for a thirty day extension of time to file objections to the findings and recommendations filed April 19, 2024. (ECF No. 30.) On June 26, 2024, Jonathan Green filed a letter/affidavit with the court, docketed as "Motion to Substitute Plaintiff." (ECF No. 33.)

Good cause appearing, IT IS HEREBY ORDERED that:

1. The April 19, 2024 findings and recommendations (ECF No. 28) are vacated; and
2. Defendant is granted twenty-one days from the date of this order to file a response to the "Motion to Substitute Plaintiff;" Jonathan Green may file a reply to defendant's response within fourteen days thereafter.

Dated: July 2, 2024

  
CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

Green1066.vac

2